

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1203

Introduced by Assembly Member Jones-Sawyer

February 27, 2015

An act to amend Section ~~8588.11~~ of 8685 of, and to add Sections 8587.3 and 8587.4 to, the Government Code, to add Section 16034 to the Insurance Code, and to repeal Chapter 1.5 (commencing with Section 4210) of Part 2 of Division 4 of the Public Resources Code, relating to emergency services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1203, as amended, Jones-Sawyer. Office of Emergency ~~Services: Fire Fighter Apprenticeship Program: training: crude oil spills: Services: property insurance surcharge.~~

Existing law required, by September 1, 2011, the State Board of Forestry and Fire Protection to adopt emergency regulations to establish a fire prevention fee of not more than \$150 for the necessary fire prevention activities of the state that benefit the owners of structures within a state responsibility area.

This bill would repeal the fire prevention fee. The bill would instead create the Disaster Response Fund in the State Treasury. The bill would require all insureds in the state to pay a special purpose surcharge on each commercial and residential fire and multiperil insurance policy issued or renewed on or after January 1, 2016, as specified. Moneys from this surcharge would be deposited in the fund and be appropriated by the Legislature for the purposes of funding emergency activities of the Office of Emergency Services, the Department of Forestry and Fire Protection, and the Military Department, and local public entities for

disaster preparedness and response. The bill would also require every admitted insurance company in the state to collect the surcharge and separately identify the surcharge on each affected insurance policy. The bill would provide that the failure of an insured to pay the surcharge would result in the cancellation of his or her policy.

Because the payment of the special purpose surcharge, under the bill, would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, the bill would require for passage the approval of ²/₃ of the membership of each house of the Legislature.

~~Existing law creates the Office of Emergency Services in the office of the Governor, with specified powers and duties relative to coordinating emergency services. Existing law requires the office to contract with the California Fire Fighter Joint Apprenticeship Program to develop a fire service specific course of instruction on the responsibilities of first responders to terrorism incidents. That law also requires the course of instruction to be developed in consultation with individuals knowledgeable about the impact of a terrorist incident, as provided.~~

~~This bill would additionally authorize the office to contract with the program to develop a course of instruction on the responsibilities of first responders to incidents involving crude oil spills by rail, and would additionally require the course of instruction to be developed in consultation with individuals knowledgeable about crude oil spills by rail.~~

Vote: ~~majority~~²/₃. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California is faced with ongoing, increasing disaster threats,
- 4 which are shared by all Californians and demand a statewide
- 5 response.
- 6 (b) California's communities must consistently prepare for a
- 7 wide-range of devastating emergencies, from natural disasters,
- 8 such as floods, droughts, wildfires, mudslides, and earthquakes,
- 9 to man-caused disasters, such as a hazardous materials release,

1 *a massive explosion, or the dispersal of a biological or chemical*
2 *agent.*

3 *(c) Catastrophic disasters impact the entire state's economy,*
4 *the entire state's insurance costs, and the entire state's quality of*
5 *life.*

6 *(d) Our first goal should be to ensure that man-caused disasters*
7 *do not happen in the first place. With respect to natural disasters,*
8 *we must ensure that our communities and our first responders are*
9 *trained at the highest level, are adequately prepared, and have*
10 *employed the most effective mitigation strategies.*

11 *(e) When the alarm bell rings, the safety of the public demands*
12 *that California's state and local government agencies have the*
13 *ability to aggressively support our first responders in effectively*
14 *mitigating what will inevitably be the next disaster.*

15 *(f) Disaster response in California relies upon the coordinated*
16 *role that state and local agencies play in the overall mutual aid*
17 *emergency response network. There is a critical need to support*
18 *California's mutual aid system, the essential state and local*
19 *disaster response connection, by ensuring that local agency first*
20 *responder services are not threatened by state and local cutbacks.*

21 *(g) The Governor's Office of Emergency Services (OES) is the*
22 *most experienced emergency management agency in the nation*
23 *and is charged with, among other things, coordinating state level*
24 *emergency preparedness, response, and recovery using a*
25 *centralized communications infrastructure, interagency*
26 *cooperation, dedicated resources, and expert staff.*

27 *(h) CAL FIRE is the agency responsible for protecting natural*
28 *resources from fire on land designated by the State Board of*
29 *Forestry as a State Responsibility Area (SRA). CAL FIRE also*
30 *serves as the incident command during many of California's most*
31 *serious disasters in partnership with OES and California's local*
32 *government participants in the State Mutual Aid System.*

33 *(i) By design, the SRA fee that has been annually imposed on*
34 *properties and structures since 2012 cannot be used for fire*
35 *suppression activities, such as fighting fires and acquiring fire*
36 *suppression equipment.*

37 *(j) In some cases, the SRA fee creates a double or triple layered*
38 *fee-structure at the local level, which causes a disconnect among*
39 *taxpayers who may be paying a fee that confers little, if any, local*
40 *benefit to their local fire department. The SRA fee should be*

1 *repealed in favor of a more comprehensive structure that supports*
2 *both fire prevention and suppression activities statewide.*

3 *(k) It is in the public's best interest and welfare that the state*
4 *build on California's base of high-level disaster response readiness*
5 *by ensuring a dedicated source of revenue that supports local and*
6 *state fire and emergency disaster response. It is an essential*
7 *commitment to the safety and well-being of every Californian, no*
8 *matter where they live.*

9 *SEC. 2. Section 8587.3 is added to the Government Code, to*
10 *read:*

11 *8587.3. (a) There is hereby established in the Office of*
12 *Emergency Services the California Fire and Rescue Mutual Aid*
13 *Support Program.*

14 *(b) (1) On July 1, 2016, and each year thereafter, upon*
15 *appropriation by the Legislature, the program shall be allocated*
16 *50 percent of the funds deposited in the Disaster Response Fund*
17 *created pursuant to Section 16034 of the Insurance Code, for the*
18 *purposes specified in this section.*

19 *(2) The Director of Emergency Services shall allocate the funds*
20 *specified in paragraph (1) to local public entities providing fire*
21 *protection within an operational area as specified in Section 8605,*
22 *that are participants in the Master Mutual Aid Agreement as*
23 *defined in Section 8561, have, if subject to the requirements of*
24 *Section 65302.6, adopted a hazard mitigation plan pursuant to*
25 *that section and are in compliance with the reporting requirements*
26 *of Section 13110.5 of the Health and Safety Code. The funds shall*
27 *be allocated to local public entities based upon all of the following:*

28 *(A) A pro rata share of fees collected for the Disaster Response*
29 *Fund created pursuant to Section 16034 of the Insurance Code*
30 *within that operational area.*

31 *(B) The population served by each local public entity that*
32 *provides fire protection within that operational area.*

33 *(C) The specific risk assessment within that operational area*
34 *based upon hazard maps, community vulnerability and capacity*
35 *analysis, risk modeling, and direct, indirect, and secondary effects*
36 *of disasters, as determined by the director.*

37 *(3) On an annual basis, any funds that are not allocated as*
38 *specified in paragraph (1) and are not allocated or scheduled to*
39 *be allocated as set forth in subdivision (l) of Section 16034 of the*
40 *Insurance Code from the Disaster Response Fund, shall, upon*

1 *appropriation by the Legislature, be allocated to the program for*
2 *the purposes specified in this section, and shall be allocated by*
3 *the director pursuant to paragraph (2).*

4 *(c) Local public entities that receive an allocation pursuant to*
5 *subdivision (b) shall use the funds to enhance or sustain fire and*
6 *rescue disaster mutual aid capacity to combat the effect of all*
7 *hazard disasters in any of the following areas:*

8 *(1) Disaster response capacity.*

9 *(2) Communications interoperability consistent with standards*
10 *and specifications established under Article 6.2 (commencing with*
11 *Section 8592).*

12 *(3) Household and individual preparedness outreach and*
13 *education.*

14 *(4) Programs to immediately reduce community vulnerability*
15 *to hazards identified in their approved hazard mitigation plan*
16 *pursuant to Section 65302.6.*

17 *(d) Local public entities that receive an allocation pursuant to*
18 *subdivision (b) may use the funds to support personnel, training,*
19 *exercises, equipment, construction, and other activities that*
20 *enhance or sustain disaster mutual aid capacity or reduce*
21 *community vulnerability to disasters.*

22 *(e) For purposes of promoting the implementation and*
23 *functioning of the program, upon appropriation by the Legislature,*
24 *the director may allocate funds to reimburse agencies and special*
25 *districts that provide staff support for operational area or regional*
26 *fire and rescue coordination.*

27 *(f) Funds allocated to local public entities pursuant to this*
28 *section shall not be used to supplant any existing funds allocated*
29 *to that entity by the Office of Emergency Services for fire and*
30 *rescue services.*

31 *SEC. 3. Section 8587.4 is added to the Government Code, to*
32 *read:*

33 *8587.4. (a) Beginning on July 1, 2016, and on July 1 every*
34 *three years thereafter, the Director of Emergency Services, in*
35 *consultation with the Department of Forestry and Fire Protection,*
36 *FIRESCOPE, and statewide stakeholder organizations representing*
37 *firefighters, fire chiefs, and special fire districts, shall develop a*
38 *strategy for enhancement of mutual aid. The strategy shall do all*
39 *of the following:*

1 (1) *Identify eligible purchases, activities, and programs that*
2 *promote the delivery of mutual aid.*

3 (2) *Set goals for mutual aid enhancement.*

4 (3) *Identify criteria for allocations of resources for mutual aid.*

5 (4) *Prescribe the fiscal and administrative oversight of the*
6 *California Fire and Rescue Mutual Aid Support Program*
7 *established pursuant to Section 8587.3.*

8 (b) *On a date identified by the Director of Emergency Services,*
9 *each fire and rescue operational area shall submit a three-year*
10 *strategy plan, to the director, for the enhancement of fire and*
11 *rescue disaster mutual aid. The plan shall satisfy the requirements*
12 *specified in subdivision (a) and shall specify how local public*
13 *entities within the operational area will use the funds over the next*
14 *three years.*

15 SEC. 4. *Section 8685 of the Government Code is amended to*
16 *read:*

17 8685. From any moneys appropriated for that purpose, and
18 subject to the conditions specified in this article, the director shall
19 allocate funds to meet the cost of any one or more projects as
20 defined in Section 8680.4. Applications by school districts shall
21 be submitted to the Superintendent of Public Instruction for review
22 and approval, in accordance with instructions or regulations
23 developed by the Office of Emergency Services, prior to the
24 allocation of funds by the director.

25 Moneys appropriated for the purposes of this chapter may be
26 used to provide financial assistance for the following local agency
27 and state costs:

28 (a) Local agency personnel costs, equipment costs, and the cost
29 of supplies and materials used during disaster response activities,
30 incurred as a result of a state of emergency proclaimed by the
31 Governor, excluding the normal hourly wage costs of employees
32 engaged in emergency work activities. *Notwithstanding subdivision*
33 *(a) of Section 8686, the state share of eligible costs identified in*
34 *this subdivision shall be up to 100 percent for those projects*
35 *involving local agencies qualified pursuant to paragraph (2) of*
36 *subdivision (b) of Section 8587.3 from funds available to the Office*
37 *of Emergency Services pursuant to subdivision (l) of Section 16034*
38 *of the Insurance Code.*

39 (b) To repair, restore, reconstruct, or replace facilities belonging
40 to local agencies damaged as a result of disasters as defined in

1 Section 8680.3. Mitigation measures performed pursuant to
2 subdivision (b) of Section 8686.4 shall qualify for funding pursuant
3 to this chapter.

4 (c) Matching fund assistance for cost sharing required under
5 federal disaster assistance programs, as otherwise eligible under
6 this act.

7 (d) Indirect administrative costs and any other assistance deemed
8 necessary by the director.

9 (e) Necessary and required site preparation costs for
10 mobilehomes, travel trailers, and other manufactured housing units
11 provided and operated by the Federal Emergency Management
12 Agency.

13 *SEC. 5. Section 16034 is added to the Insurance Code,*
14 *immediately following Section 16032, to read:*

15 *16034. (a) The Disaster Response Fund is hereby created in*
16 *the State Treasury. Funds received by the Office of Emergency*
17 *Services pursuant to this section shall be deposited into this fund.*
18 *Funds deposited into this fund shall be appropriated by the*
19 *Legislature for the purposes of this section to fund the disaster*
20 *and emergency response activities of the Office of Emergency*
21 *Services, the Department of Forestry and Fire Protection, and the*
22 *Military Department.*

23 *(b) Insureds shall pay a special purpose surcharge on each*
24 *commercial and residential fire and multiperil insurance policy*
25 *issued or renewed on or after January 1, 2016, equivalent to one*
26 *of the following:*

27 *(1) Five percent of the premium written on property exposure*
28 *for commercial or residential fire and multiperil insurance*
29 *properties located within an operational area as specified in*
30 *Section 8605 of the Government Code, and within a political*
31 *subdivision that is not a participant in the Master Mutual Aid*
32 *Agreement as defined by Section 8561 of the Government Code.*

33 *(2) Three percent of the premium written on property exposure*
34 *for commercial or residential fire and multiperil insurance*
35 *properties located within an operational area as specified in*
36 *Section 8605 of the Government Code, and within a political*
37 *subdivision that is a participant in the Master Mutual Aid*
38 *Agreement as defined by Section 8561 of the Government Code.*

39 *(c) The surcharge shall only be applied to new business and*
40 *renewal transactions. No adjustment shall be made for midterm*

1 *increases or decreases in exposure or coverage. The amount of*
2 *the surcharge shall be calculated to the nearest dollar.*
3 *Notwithstanding any other law, failure to collect the surcharge*
4 *from insureds prior to April 1, 2016, shall not result in a penalty,*
5 *fine, or other liability.*

6 *(d) Every admitted insurer in this state shall collect the disaster*
7 *response surcharge specified in subdivision (b), which shall be*
8 *separately identified on each policy, with respect to the property*
9 *portion of the commercial or residential fire and multiperil*
10 *insurance policy.*

11 *(e) For those policies on which the surplus line tax is paid by*
12 *a surplus line broker pursuant to Sections 1775.1 and 1775.5,*
13 *inclusive, the surplus line broker shall collect the disaster response*
14 *surcharge with respect to the property portion of any homeowners*
15 *policy, all risk insurance policy, or named peril insurance policy*
16 *that specifically includes fire coverage placed with a nonadmitted*
17 *insurer. If those policies cover multistate risks, the surcharge shall*
18 *be applied pro rata to that portion of the premium allocated to*
19 *risks in this state based on the percentage of the property risk*
20 *located in California.*

21 *(f) (1) Funds received as a result of the surcharge imposed on*
22 *insureds as a percentage of premiums written on property*
23 *exposures for both commercial and residential insurance policies*
24 *shall be remitted by the admitted insurers to the Office of*
25 *Emergency Services, or other state agency or their agent*
26 *designated to collect the surcharge on behalf of the Office of*
27 *Emergency Services, within 45 days following the end of each*
28 *calendar quarter. The premiums written by admitted insurers for*
29 *property exposures shall be as stated on lines 1, 4, and 5.1 of the*
30 *annual statement filed by each insurer pursuant to Section 900.*

31 *(2) Funds received as a result of the surcharge imposed on*
32 *insureds as a percentage of premiums written on property*
33 *exposures for both commercial and residential insurance policies*
34 *placed with a nonadmitted insurer shall be remitted by the surplus*
35 *line brokers to the Surplus Line Association in the same manner*
36 *and form as the stamping fee paid on the policies placed with a*
37 *nonadmitted insurer by a surplus line broker. The Surplus Line*
38 *Association shall remit the funds received from the surplus line*
39 *brokers to the Office of Emergency Services, or its designee, within*
40 *45 days following the end of each calendar quarter.*

1 (g) *None of the special purpose surcharges shall be considered*
2 *premiums for any purpose, including the computation of gross*
3 *premium tax or agent's commission. The full amount of the*
4 *surcharge is due at inception or renewal of the insurance policy,*
5 *even if the premium is paid in installments. The amount of each*
6 *special purpose surcharge shall be separately stated on either a*
7 *billing or policy declaration sent to an insured. Notwithstanding*
8 *this subdivision, an admitted insurer or surplus line broker may*
9 *omit collecting of the surcharge from its insured if the expense of*
10 *collecting the surcharge would exceed the amount of the surcharge*
11 *and instead remit the amount of the omitted surcharges to the*
12 *Office of Emergency Services or its designee, provided that nothing*
13 *in this subdivision shall relieve the admitted insurer or surplus*
14 *line broker of its obligation to recoup the amount of the surcharge*
15 *otherwise collectible.*

16 (h) (1) *For commercial policies with combined property and*
17 *liability coverage, for which the actual property coverage cannot*
18 *be determined, the admitted insurer shall calculate, and the insured*
19 *shall remit, the surcharge based upon the ratio of 50 percent*
20 *attributable to the property coverage. Within 45 days following*
21 *submission of its annual statement to the National Association of*
22 *Insurance Commissioners, an admitted insurer shall reconcile its*
23 *lines 1, 4, and 5.1 surcharge remittances based upon its annual*
24 *statement.*

25 (2) *For policies for which a surplus line tax is paid by a surplus*
26 *line broker pursuant to Sections 1775.1 to 1775.5, inclusive, for*
27 *risks with combined property and liability coverage, the surplus*
28 *line broker shall calculate and the insured shall remit the*
29 *surcharge based on a ratio of 50 percent attributable to the*
30 *property coverage.*

31 (i) *Each admitted insurer and surplus line broker collecting the*
32 *surcharge shall be required to disclose the surcharge as the*
33 *"California Disaster Response Surcharge" on the declarations*
34 *page, the billing statement, or a separate document accompanying*
35 *the declarations page or billing statement. If an insurer chooses*
36 *to provide supplemental materials to the policyholders describing*
37 *the surcharge, the language shall comply substantially with either*
38 *of the following, as applicable and consistent with subdivision (b):*

39 (1) *"The State of California has imposed a Disaster Response*
40 *Surcharge on all residential and commercial insurance policies*

1 issued or renewed on or after January 1, 2016. The purpose of
2 this surcharge is to ensure adequate funding of disaster response
3 and fire and rescue mutual aid services throughout California,
4 including your area. We are required by law to collect the
5 surcharge from our policyholders. The surcharge, which is
6 separately stated on your declarations page or billing statement,
7 is calculated at 5 percent of the total policy premium related to
8 property insurance.”

9 (2) “The State of California has imposed a Disaster Response
10 Surcharge on all residential and commercial insurance policies
11 issued or renewed on or after January 1, 2016. The purpose of
12 this surcharge is to ensure adequate funding of disaster response
13 and fire and rescue mutual aid services throughout California,
14 including your area. We are required by law to collect the
15 surcharge from our policyholders. The surcharge, which is
16 separately stated on your declarations page or billing statement,
17 is calculated at 3 percent of the total policy premium related to
18 property insurance.”

19 (j) Failure of an insured to pay the surcharge shall be treated
20 as a failure to pay the premium. Failure to pay the surcharge shall
21 result in cancellation of the policy.

22 (k) If a policy is canceled before the end of the term for which
23 it was issued or the end of the period for which a premium has
24 been paid, the refund of the surcharge amount submitted to the
25 Office of Emergency Services or its designee shall be remitted to
26 the insured. However, any assessable policy of insurance that is
27 canceled as of the effective date of the policy, if the entire premium
28 is returned to the insured, and no coverage was ever provided to
29 the insured, shall not be subject to a surcharge. All refunds of
30 previously collected surcharges on those canceled policies shall
31 be applied to reduce the surcharges reported in the same calendar
32 quarter in which the refunded surcharges were made.

33 (l) Funds in the Disaster Response Fund shall be distributed,
34 upon appropriation, in accordance with Section 8587.3 of the
35 Government Code and the balance of the fund to the Office of
36 Emergency Services, the Department of Forestry and Fire
37 Protection, and the Military Department for the support of disaster
38 response and fire and rescue mutual aid activities of those
39 departments, and to the Office of Emergency Services or its
40 designee for the actual administrative costs incurred in collecting

1 *the surcharge pursuant to this section, and for the maintenance*
2 *of an adequate reserve.*

3 *(m) Any balance remaining in the fund that is scheduled to be*
4 *allocated but not yet allocated as described in paragraph (3) of*
5 *subdivision (b) of Section 8587.3 of the Government Code shall*
6 *be retained in the fund and carried forward to the next fiscal year.*

7 *(n) The Department of Insurance, the Department of Forestry*
8 *and Fire Protection, and other state agencies and departments*
9 *shall cooperate and provide information to the Office of Emergency*
10 *Services as necessary to implement this program.*

11 *(o) For the purposes of this section, the following definitions*
12 *apply:*

13 *(1) "Admitted insurer" means an insurer that has secured a*
14 *certificate of authority from the commissioner as required by*
15 *Section 700 and is subject to the tax set forth in Section 28 of*
16 *Article XIII of the California Constitution.*

17 *(2) "Hazard" means the potential impact to people or property*
18 *as a result of seismic activity, flood, or wildland fire.*

19 *(3) "Surplus line broker" means a person licensed pursuant to*
20 *Section 1765.2.*

21 *(p) For purposes of this section, "FAIR Plan" established*
22 *pursuant to Chapter 9 (commencing with Section 10090) of part*
23 *1 of Division 2, is an admitted insurer.*

24 *SEC. 6. Chapter 1.5 (commencing with Section 4210) of Part*
25 *2 of Division 4 of the Public Resources Code is repealed.*

26 ~~SECTION 1. Section 8588.11 of the Government Code is~~
27 ~~amended to read:~~

28 ~~8588.11. (a) The office shall contract with the California Fire~~
29 ~~Fighter Joint Apprenticeship Program to develop a fire service~~
30 ~~specific course of instruction on the responsibilities of first~~
31 ~~responders to incidents involving crude oil spills by rail and~~
32 ~~terrorism incidents. The course shall include the criteria for the~~
33 ~~curriculum content recommended by the Curriculum Development~~
34 ~~Advisory Committee established pursuant to Section 8588.10 to~~
35 ~~address the training needs of both of the following:~~

36 ~~(1) Firefighters in conformance with the standards established~~
37 ~~by the State Fire Marshal.~~

38 ~~(2) Paramedics and other emergency medical services fire~~
39 ~~personnel in conformance with the standards established by the~~
40 ~~Emergency Medical Services Authority.~~

1 (b) ~~The course of instruction shall be developed in consultation~~
2 ~~with individuals knowledgeable about consequence management~~
3 ~~that addresses the topics of containing and mitigating the impact~~
4 ~~of incidents involving crude oil spills by rail or a terrorist incident,~~
5 ~~including, but not limited to, a terrorist act using hazardous~~
6 ~~materials, as well as weapons of mass destruction, including any~~
7 ~~chemical warfare agent, weaponized biological agent, or nuclear~~
8 ~~or radiological agent, as those terms are defined in Section 11417~~
9 ~~of the Penal Code, by techniques including, but not limited to,~~
10 ~~rescue, firefighting, casualty treatment, and hazardous materials~~
11 ~~response and recovery.~~

12 (e) ~~The contract shall provide for the delivery of training by the~~
13 ~~California Fire Fighter Joint Apprenticeship Program through~~
14 ~~reimbursement contracts with the state, local, and regional fire~~
15 ~~agencies who may, in turn, contract with educational institutions.~~

16 (d) ~~To maximize the availability and delivery of training, the~~
17 ~~California Fire Fighter Joint Apprenticeship Program shall develop~~
18 ~~a course of instruction to train the trainers in the presentation of~~
19 ~~the first responder training of consequence management for fire~~
20 ~~service personnel.~~

21
22
23 CORRECTIONS:

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